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ABSTRACT

This issue of "Bill of Rights in Action" looks at individuals who have stood on principle against authority or popular opinion. The first article investigates John Adams and his defense of British soldiers at the Boston Massacre trials. The second article explores Archbishop Thomas Becket's fatal conflict with England's King Henry II. The final article examines Dr. Jack Kevorkian and the issue of mercy killing. Each article includes questions for class discussion and writing, a further reading list, and classroom activities. (BT)

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The
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John Adams and the Boston Massacre Trials

On March 5, 1770, British soldiers fired on a mob of colonists in Boston. This incident, known as the Boston Massacre, enraged American colonists. Yet John Adams, future second president of the United States and cousin of Boston Patriot-leader Sam Adams, ended up defending a group of hated British soldiers at their trials.

The Boston Massacre outraged American colonists. Many colonists formed their views of the event from Paul Revere's widely circulated cartoon. (Bettmann/CORBIS)

In the years leading up to the American Revolution, the British sought to establish firm control over their American colonies. In the British view, the colonies had prospered because British troops had protected Americans from the French, Spanish, and Indians. The king's chief minister proclaimed in Parliament in 1763: "Great Britain protects America; America is bound to yield obedience." Parliament then set on a course of passing laws to control trade, stop smuggling, restrict settlement beyond the Appalachian Mountains, and raise revenue from the colonies. Historically, the colonies had experienced little control or interference by the British, so they considered these laws oppressive and began to resist. Much of the resistance took place in Boston.

US HISTORY

One target of American outrage was customs collectors, whose job was to stop smugglers and collect taxes. They sometimes conducted searches under writs of assistance. These were general warrants that allowed them to search any house for smuggled goods. When customs officials in 1768 seized John Hancock's ship on charges of smuggling wine, Boston mobs attacked them. The British government ordered two regiments of soldiers to occupy the town. About 700 British regulars marched with fixed bayonets into Boston. The people refused to take the troops into their homes, so units of soldiers were quartered in public buildings and warehouses.

The troops trained on Boston Common and stood guard in front of government offices, including the Customs House. The occupying army and the townspeople grew to hate each oth-

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Matters of Principle

This issue of *Bill of Rights in Action* looks at individuals who have stood on principle against authority or popular opinion. The first article looks at John Adams and his defense of British soldiers at the Boston Massacre trials. The second article explores Archbishop Thomas Becket's fatal conflict with King Henry II. The final article examines Dr. Jack Kevorkian and the issue of mercy killing.

U.S. History: John Adams and the Boston Massacre Trials

World History: The Murder of an Archbishop

U.S. Government: Should We Have the Right to Die?

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er. The soldiers, wearing distinctive red coats and armed with muskets and swords, intimidated the people with insults and threats. Boston workmen, sailors, and teenage apprentices cursed at the redcoats and challenged them to fistfights. Meanwhile, the Sons of Liberty, a radical Patriot organization led by Sam Adams, agitated for an end to the military occupation.

The Boston Massacre

On Friday, March 2, 1770, an off-duty British soldier asked a group of Boston rope makers if there was any work. One of the rope makers replied there was. "Go clean my outhouse," he jeered. A fight broke out. The soldier was knocked about and then fled. But a little while later, the soldier returned with friends and a brawl erupted. One of the soldiers, Matthew Killroy, and one of the rope makers, Samuel Gray, would meet again soon in much bloodier circumstances.

On the evening of Monday, March 5, a lone British sentry guarded the entrance to the Boston Customs House where officials collected import duties for the king. The sentry got into an argument with a barber's apprentice and swung his musket at him, hitting the boy on the head. Other apprentices gathered, daring the sentry to fight. "Bloody lobster back!" they yelled, taunting the soldier and his red coat.

"Lobsters!" "Bloody backs!" "Fire! Why don't you fire?" many shouted.

By about 9 p.m., the crowd around the Customs House steps had grown to about 50 to 100 people. Some began to throw snowballs and chunks of ice at the sentry. He loaded his musket. "Fire, damn you, fire, you dare not fire!" the crowd taunted.

The sentry finally called for help when a group of about 25 American sailors arrived, yelling, whistling, and carrying wooden clubs. A tall, stout man named Crispus Attucks led this noisy band. Part Indian and black, Attucks pushed his way to the front of the crowd, club in hand.

Captain Thomas Preston, officer of the guard, turned out a squad of six privates and a corporal. In the squad was Private Matthew Killroy, who had been involved in the rope-maker brawl. The soldiers marched with their muskets and bayonets to the Customs House to join the beleaguered sentry. They lined up facing the crowd. The corporal then ordered the soldiers to load their muskets with two lead balls per gun. Capt. Preston stood behind his men.

From 300–400 people had now gathered. "Lobsters!" "Bloody backs!" "Fire! Why don't you fire?" many shouted. Some threw snowballs, ice, oyster shells, and even lumps of coal at the soldiers. Crispus Attucks and others struck the soldiers' musket barrels with sticks and clubs. Attucks yelled, "Kill them! Kill them! Knock them over!"

Then, someone from the back of the mob threw a club that hit Pvt. Montgomery, knocking him to the ground. "Damn you, fire!" someone shouted. Enraged, Montgomery rose to his feet and fired his musket killing Crispus Attucks. Soon, most of the other soldiers were erratically firing into the mob. When Pvt. Killroy fired, rope-maker Samuel Gray fell dead. As the men began to reload, Capt. Preston ordered, "Stop firing! Stop firing!" Five men lay dead or dying in the bloody snow.

Capt. Preston managed to march his men back to their barracks. Acting Governor Thomas Hutchinson, a strong Tory Loyalist, finally arrived to try to calm the people. "Let the law have its course," he pleaded.

The next day, Sam Adams led a huge protest meeting demanding that all British soldiers be ordered out of Boston. Reluctantly, Gov. Hutchinson made an agreement with the British army commander to remove the soldiers to a fortified island in Boston Harbor. Boston residents lined the streets to insult and curse the redcoats as they evacuated the town.

On March 13, the colony's attorney general issued 13 indictments for murder. There would be three trials. Capt. Preston would be tried first followed by a separate trial of the eight soldiers. Four customs officers, accused of shooting into the crowd from the Customs House windows, would be tried last. (This final trial ended abruptly when the jury found out that the main prosecution witness had falsely accused the officers.)

The Trial of Capt. Preston

Before the trials began, a propaganda war of sorts took place. Gov. Hutchinson sent a report to London criticizing Boston for its violence and mob actions against the British soldiers. He later wrote, "government is at an end and in the hands of the people." Sam Adams and the Sons of Liberty took the testimony of witnesses

for their own document, which they titled, "A Short Narrative of the Horrid Massacre in Boston." But the most effective propaganda piece was Paul Revere's widely printed cartoon, "The Bloody Massacre," an exaggerated misrepresentation of what really happened.

The court appointed Samuel Quincy, a strong Tory (British sympathizer), as special prosecutor. Sam Adams persuaded the town of Boston to pay for a second prosecutor, Patriot Robert Treat Paine.

Capt. Preston could not get anyone to defend him in court until a Tory merchant persuaded lawyer John Adams to do so. Although he was one of the Patriot leaders in Boston, the 35-year-old Adams believed that it was vital that the British soldiers and their captain receive fair trials. Adams believed that the cause for self-government would be damaged if Boston justice turned out to be little more than lynch law. Joining Adams on the defense team were a a Tory judge, Robert Auchmuty, and a young fiery Patriot lawyer, Josiah Quincy, the younger brother of the special prosecutor. Ironically Tory Loyalist Samuel Quincy had the job of convicting the king's men of murder, while Patriot John Adams led the effort to defend them.

With public sentiment running high against the British, Patriot John Adams led the defense team for the British soldiers accused of murder in the Boston Massacre. (Bettmann CORBIS)

Amid continued mob activities and threats of lynching, Capt. Preston's trial began on October 24, 1770. It lasted six days, an extremely long time then for a criminal trial. The court also took the unusual step of sequestering the jury (keeping jury members away from their family and friends).

Four judges, wearing red robes that signified a death penalty case, presided at Capt. Preston's trial. The key question was whether he actually gave an order to his men to fire at the mob. Preston denied giving the order, but did not testify. Some witnesses said he gave such a command; most said he did not. Much of the testimony centered on who was shouting the word "Fire!" when the shooting began. In the end, the Boston jury found Capt. Preston not guilty.

To Sam Adams and the other Sons of Liberty, Capt. Preston's acquittal was disturbing, but not entirely unexpected. After all, Preston was never accused of shooting at the crowd himself. But the strong feeling in the town remained that someone would have to pay for the five men who died.

The Trial of the British Soldiers

The trial of the eight British soldiers began on November 27 with a different jury (again sequestered), but before the same four judges as in the Preston case. Samuel Quincy and Robert Treat Paine continued to prosecute. Sampson Blowers joined John Adams and his former Harvard classmate Josiah Quincy for the defense. This trial lasted seven days with more than 80 witnesses testifying.

The prosecutors only had to prove that one of the soldiers fired with malice and the intent to kill. All the soldiers would then be equally guilty of murder and would hang.

The prosecution tried to show that after months of abuse from the town's people, all the soldiers had revenge in their hearts. In particular, a witness testified that one or two weeks before the shooting, Pvt. Killroy had said that "he would never miss an opportunity, if he had one, to fire on the inhabitants, and that he had wanted to have an opportunity ever since he landed." After Pvt. Montgomery fired the first shot, the prosecution argued, Killroy had his opportunity and shot rope-maker Samuel Gray to death.

The defense team had to overcome some major problems. If Capt. Preston did not order his men to fire, as Preston's jury had ruled, then why did the men fire? Adams and the other defense lawyers had to show that the crowd was endangering the soldiers. They would have to persuade a jury that probably held strong anti-British feelings.

The defense thus concentrated on the actions of the specific mob that threatened Capt. Preston and his men. Witnesses for the defense described the insults, curses, threats, taunts, and the physical objects that the mob hurled upon the soldiers. Dr. John Jeffries, who treated

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victim Patrick Carr for 10 days before he finally died, gave especially effective testimony. Dr. Jeffries related that Carr, on his deathbed, said that he believed the soldiers fired to defend themselves and that he did not blame the man who shot him.

John Adams spent much of his closing argument educating the jury on the law of self-defense. He recalled the testimony about the "people crying kill them! kill them! knock them over! heaving snowballs, oyster shells, clubs, white birch sticks." Adams then asked the jurors to "consider yourselves, in this situation, and then judge whether a reasonable man . . . would not have concluded they were going to kill him."

Adams referred to Pvt. Montgomery, the first to fire. "He was knocked down at his station," Adams continued. "Had he not reason to think his life in danger?" As for Pvt. Killroy, Adams pointed out that no one had testified that he had aimed at Samuel Gray rather than at the mob in general.

John Adams concluded by stating the law at the time: "If an assault was made to endanger their lives, the law is clear, they had the right to kill in self-defense . . . ." Adams conceded, however, that if the assault "was not so severe as to endanger their lives . . . [then] this was a provocation, for which the law reduces the offense of killing down to manslaughter."

Robert Treat Paine concluded the case for the prosecution. He told the jurors that the soldiers had unlawfully assembled in front of the Customs House, loading their muskets with double shot, which inflamed the crowd. The soldiers then opened fire without any order from Capt. Preston. They did this, Paine argued, not to defend themselves, but out of malice. The redcoats sought revenge for all the insults and harassment they had suffered since arriving in Boston. Thus he called on the jury to find the soldiers who fired guilty of murder.

After instructions from the judge, the case went to the jury to deliberate on a verdict. In the activity that follows, you will have a chance to act as the jury decide on your own verdict.

For Discussion and Writing

1. Why do you think John Adams decided to defend Capt. Preston and the eight British soldiers?
2. Carefully study Paul Revere's cartoon of the Boston Massacre. Based on the facts that came out in the three trials, what errors can you find?
3. How did John Adams distinguish between self-defense and manslaughter?
4. Who do you believe was most responsible for the Boston Massacre? Why?
5. Modern criminal defense attorneys are often asked to defend people charged with horrible crimes. Do you think they should? Explain.

For Further Reading

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A C T I V I T Y

Verdict

1. Form small groups to each play the role of the jury in the trial of the eight British soldiers.
2. Each jury should deliberate over the guilt or innocence of the soldiers and then vote on these possible verdicts:
   a. all innocent of both murder and manslaughter
   b. one or more guilty of murder; others innocent
   c. one of more guilty of manslaughter; others innocent
   d. one or more guilty of murder; one or more guilty of manslaughter; others innocent

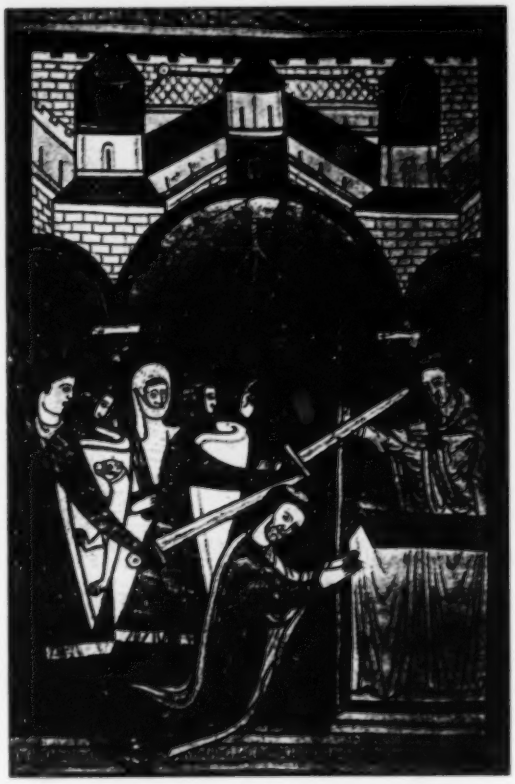
   A unanimous verdict is required for this case to be decided.
3. Each jury should then report and defend its verdict.

The Outcome

After deliberating for about three hours, the jurors found all the soldiers innocent of murder, but judged Pvts. Montgomery and Killroy guilty of manslaughter. Although these men were technically convicted of a capital offense, the court permitted them to make a special plea that reduced their penalty to branding on the thumb. Montgomery later admitted that it was he who had shouted, "Damn you, fire!" just before he shot his musket.

The Murder of an Archbishop

In 1170, four knights in the service of England's King Henry II entered Canterbury Cathedral and murdered Archbishop Thomas Becket. This was the climax to a bitter quarrel between Henry and Thomas, pitting the authority of the king against that of the church.



Knights attacked Archbishop of Canterbury Thomas Becket. Once a close friend of Henry II, Becket became Henry's bitter enemy. (Achivo Iconografico, S.A./CORBIS)

Christianity and the Roman Catholic Church dominated the spiritual lives of nearly everyone in medieval Europe—from powerful kings to lowly peasants. In the 11th century, Pope Gregory VII strengthened the church with a series of reforms. Among other things, Gregory insisted that priests and all other members of the clergy should be tried and punished in church courts only. This included cases involving not only religious matters, but also crimes such as theft and murder.

WORLD HISTORY

The trial and punishment of clergymen for criminal offenses became a flash point between two headstrong personalities in England: King Henry II and Archbishop Thomas Becket. These powerful men quarreled for almost 10 years over the rights and authority of church and state. Henry believed that the crown had the right to try crimes committed by the clergy. In defending this position, he believed he was upholding ancient customs and his rights as king. In arguing for the right for the church to try the clergy for any offense, Thomas believed he was defending the freedom and authority of the church.

The King

Henry II had ruled England since 1154 when he was 21 years old. He also held lands in France inherited from his ancestors. Henry tended to be emotional and easy to anger, especially when someone challenged his authority.

During his 35-year reign, Henry firmly established the king's law as the law of the land. He increased the number of royal judges traveling about the land hearing cases. He also introduced grand juries to investigate crimes and charge suspects.

His desire to strengthen his justice system got him embroiled in a controversy with the church. By 1163, Henry was fighting with the church for disregarding ancient customs governing relations between church and state. He believed the church was interfering with his rights as the secular (nonreligious) leader of England. In particular, he thought that church courts failed to adequately punish clergy members who committed serious crimes. Church courts could not sentence clergymen to execution or mutilation (by branding, for example), punishments commonly imposed by the king's secular courts.

The Archbishop

Thomas Becket's father had been a London merchant well-connected to English nobility. Thomas went to schools in London and Paris, but showed no special interest in religion. He became an accountant for a family friend and the sheriff of London.

Friends of his father introduced Thomas to the Archbishop of Canterbury, Theobald of Bec, the highest church official in England. In 1143, at age 25, Thomas entered Theobald's service as a clerk at Canterbury.

At Canterbury, Thomas' quick mind and debating ability soon impressed Archbishop Theobald, who sent the young clerk to Italy and France to study

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civil and canon (religious) law. Then in 1154, the year Henry became king, Theobald appointed Thomas as archdeacon, the second highest office at Canterbury.

Only a few weeks after Thomas became archdeacon, King Henry appointed him as his chancellor. Chancellor Thomas Becket became a close adviser to King Henry. Thomas traveled to France with him, and in one of Henry's military campaigns there led 700 knights into battle. A close personal friendship between the two men developed as they rode, hunted, hawked, and played chess together. Thomas came to occupy a position of trust and power in Henry's government unprecedented for a commoner.

Following the murder of Archbishop Thomas Becket, King Henry II submitted to a ritual whipping by monks in Canterbury Cathedral. (Bettmann/CORBIS)

When Archbishop Theobald died in 1161, Henry believed that his chancellor and friend would be the perfect replacement. Officially, Thomas was elected archbishop by an assembly of bishops and archbishops. But this took place in the king's own chapel where Henry could more easily control things. On June 3, 1162, Thomas Becket became the Archbishop of Canterbury, the highest church office in England. Henry was elated, thinking he had a highly placed ally within the church. He was wrong.

Archbishop Thomas Becket set out immediately to prove that his loyalty belonged to the church alone. He resigned his position as chancellor, signaling his independence from Henry. Then he excommunicated one of Henry's barons, opposed the king's plan to collect a sheriff's tax, and insisted on a church trial for a priest accused of killing a knight. All of these acts by Thomas challenged and enraged King Henry.

By 1163, Thomas had become a stubborn defender of church liberties. Among these was Pope Gregory's reform making the clergy immune from prosecution and punishment by the secular courts.

The Quarrel

When tried by a church court, a clergyman could defend himself by taking an oath that he was innocent. If still found guilty, his punishment, even for crimes like rape and murder, might only be removal from his holy office. Henry believed that these convicted clergymen, called "criminous clerks," unfairly evaded the strict punishments faced by everyone else in his secular courts.

At a council of barons and bishops in October 1163, King Henry raised the issue of criminous clerks. He argued that they should be treated according to ancient customs of church and state. He wanted them turned over to royal courts for criminal punishment after church courts had stripped them of their holy offices. Archbishop Thomas Becket objected on the grounds that even "God did not punish twice for the same offense."

Henry then asked the churchmen if they would obey the ancient customs. Speaking for all the bishops, Thomas replied that they would do so except for those customs that were contrary to church law. Angered by this qualified answer, Henry stormed out of the council meeting.

When Pope Alexander III counseled Thomas to back down from his uncompromising stand, Thomas agreed to do so. Henry was pleased, but not satisfied. He wanted Thomas to publicly declare his unqualified obedience to the ancient customs at another council of the barons and bishops.

When the council met at Clarendon in January 1164, Henry surprised everyone by ordering that the customs be set down in writing. He demanded that Thomas and the other bishops take an oath binding the church to observe them for all time.

Among the 16 customs confirmed in the so-called Constitutions of Clarendon, the three most controversial required:

(1) the permission of the king before any clergyman could leave the kingdom.

(2) the king's approval before any of his barons could be excommunicated from the church.

(3) the transfer of "criminous clerks" found guilty in church courts to Henry's courts for punishment.

Thomas viewed the Constitutions of Clarendon as calling for nothing less than the total surrender of church liberties. Nevertheless, after some hesitation and confusion, Thomas and the bishops reluctantly gave their oath of agreement. But shortly after the council adjourned, Thomas changed his mind and without consulting with the other bishops, disavowed his oath.

In response, King Henry summoned Thomas to answer charges before yet another council. The charges against Thomas included contempt of the king's court in a land dispute case and embezzlement of royal funds while he was chancellor. Under Henry's prodding, the council made a judgment against Thomas, which he refused to accept. Amid cries of "Traitor!" and "Perjurer!" from Henry's barons, Thomas fled the council and escaped the country to France. Henry thereafter referred to his old friend as "my great enemy."

For the next six years, Thomas lived in exile in France. Henry confiscated the revenues and possessions of Thomas as well as those of his relatives and friends. Thomas retaliated by excommunicating a number of Henry's barons.

After several fruitless face-to-face meetings between Henry and Thomas in France, things came to a head in 1170. Henry decided to crown his 15-year-old son as co-ruler. But in direct violation of the long-established rights of Canterbury and the will of the pope, Henry had the archbishop of York conduct the coronation ceremony. But fearing that the pope would place an interdict (a decree stopping the administration of all sacraments) on England, he quickly agreed to make peace with Thomas.

The two adversaries met in France and papered over their differences. Henry agreed to allow Thomas to return to England and resume his duties as archbishop. At the end of their talk, Thomas told the king, "My Lord, my heart tells me that I depart as one whom you will not see again."

Thomas left France in November 1170, but not before excommunicating three bishops who had participated in the coronation of Henry's son. Thomas made a triumphant return to England with crowds of common people cheering him as he made his way to Canterbury. Then on Christmas Day, he issued another round of excommunications.

Back in France, Henry viewed the continued excommunications by Thomas as a slap in the face. In anger and frustration, he blurted out, "Will no one rid me of this troublesome priest?" Nearby were four of Henry's knights who took his words literally and decided to act.

In anger and frustration, he blurted out, "Will no one rid me of this troublesome priest?"

Without Henry's knowledge, the four knights left France for Canterbury. On December 29, 1170, the knights armed with swords forced their way into the cathedral where Thomas was saying prayers. Although he had the opportunity, Thomas did not try to escape.

"Where is Thomas Becket, traitor to the king and the kingdom?" shouted one of the knights. Thomas calmly responded, "Here am I, no traitor but a priest and archbishop." The knights demanded that Thomas lift his excommunications. Thomas refused. One of the knights then wounded him on the head with a sword. The others joined and fell upon the archbishop with their weapons, spilling his blood and brains on the cathedral floor.

The Saint

News of the murder shocked Henry. The king maintained that he neither ordered nor desired Thomas' death, but admitted his strong words were the ultimate cause. Two years later, Pope Alexander imposed a number of penances on Henry, which he

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accepted. One of them required Henry to abolish any customs of England damaging to the church. Later, Henry went on his own to Canterbury Cathedral where Thomas was buried and submitted to a scourging (ritual whipping) by the monks there. The king never punished the actual murderers, but they did their own pope's penance by crusading in the Holy Land.

Meanwhile, pilgrims visiting the site of Thomas' tomb reported miraculous cures from diseases. On February 21, 1173, Pope Alexander made Thomas Becket a saint based on the miracles and his martyrdom in the cause of the holy church.

In 1176, Pope Alexander and King Henry negotiated an agreement on how to try and punish criminous clerks, the issue that had sparked the whole controversy. In the end, most of the other points of conflict between Henry and the church were resolved by compromise and by cooler heads.

For Discussion and Writing

1. What were "criminous clerks" and why were they at the center of the quarrel between King Henry and Archbishop Thomas Becket?
2. Who do you think was most responsible for the death of Archbishop Thomas Becket? Why?
   a. the four knights
   b. King Henry
   c. Archbishop Thomas Becket himself
3. Why would the sort of quarrel that arose between Henry and Thomas never occur in the United States?

For Further Reading

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ACTIVITY

Choices

Thomas Becket had to decide whether to follow the church or state. In our daily lives, we sometimes face conflicts between various kinds of authority and claims of morality. In this activity, students will make recommendations on what to do in several situations.

1. Divide the class into pairs of students. Each pair should:
   a. Examine and discuss each case below.
   b. Decide what to do in each case.
   c. Prepare to report to the class on their decisions and the reasons for their decisions.
2. After students have decided the cases, have pairs report back and the whole class discuss each case.

Cases

Cases #1. It's Dana's first day on the job. His boss has told him to copy and collate 500 reports by the end of the day. About a half hour later, the head of the company comes into the copy room, tells Dana to pack all the boxes in room with pamphlets by the end of the day, and storms out. Each job will take until the end of the day. What should Dana do? Why?

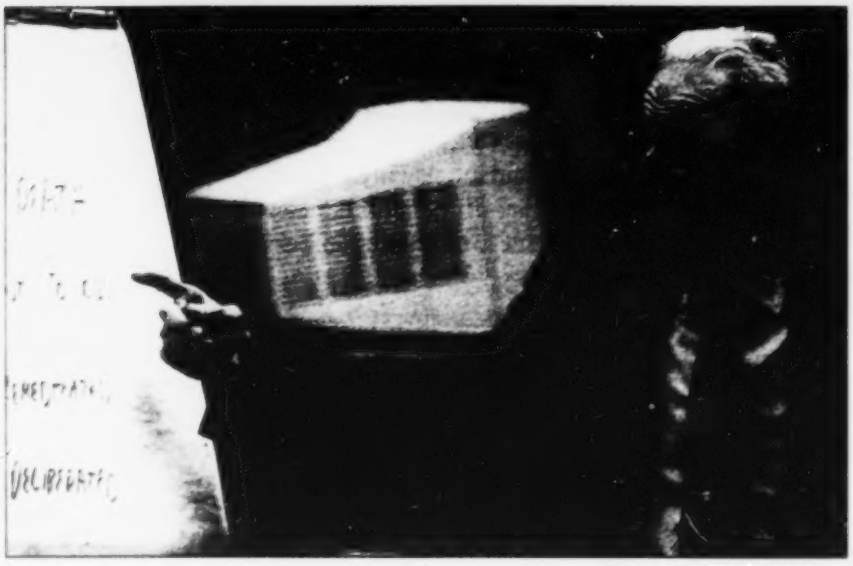
Case #2. Jane works as a products-testing engineer for Cool Tools Rule, a tool manufacturer for the do-it-yourself market. The company has been having financial difficulties, but has just developed a new tool that the marketing department believes will be a best-seller for the Christmas season. Jane is required by state law to do safety tests on the tool before it is marketed. She will not be able to complete all the safety tests until after the Christmas season. So far the tool seems safe, but it might not be. The marketing director is demanding that she sign off on the tests so that the tool can be sold before Christmas. What should Jane do? Why?

Case #3. Pat and Chris have been best friends since kindergarten. Pat is almost a part of Chris's family. Now that they are in high school, Chris has started experimenting with drugs and has told Pat. Chris's father doesn't know anything about Chris using drugs, but he's worried about Chris's behavior. He comes to Pat and asks if Pat knows what's troubling Chris. What should Pat do? Why?

Case #4. A group of high school students goes to a restaurant and orders food. Everyone pays the bill and the waitress brings change. Sam, a member of the group, discovers that the waitress has given back $20 too much. When he tells his friends, they want the money. What should Sam do? Why?

Should We Have the Right to Die?

Although attempting to take one's life is not a crime, assisting in the suicide of another is illegal in most states. Some argue, however, that the right to die is a basic civil right. They believe physician-assisted suicide for persons suffering from terminal diseases should be legal.



Dr. Jack Kevorkian, acting as his own attorney, gave a closing statement in his 1999 murder trial. The jury convicted him for assisting the suicide of a seriously ill man. (AP/Wide World Photos)

Thomas Youk, age 52, suffered from amyotrophic lateral sclerosis (ALS), also known as Lou Gehrig's Disease. ALS gradually weakens nerves to muscles, causing difficulty in breathing, paralysis, and finally death. Youk had suffered from ALS for two years and increasingly had trouble breathing and swallowing. He then contacted Dr. Jack Kevorkian from Michigan.

U.S. GOVERNMENT

Kevorkian, called "Dr. Death" in the media, is the most well-known advocate of physician-assisted suicide for people suffering from incurable diseases like ALS. Dr. Kevorkian, a pathologist, claims that since 1990 he has assisted more than 100 such individuals to take their own lives. He even invented a suicide device he calls the "Mercitron." This enables a person to die peacefully by self-administering a lethal dose of potassium chloride provided by Kevorkian. The Michigan doctor argues that competent patients experiencing prolonged suffering from fatal diseases have a right to die if they so choose.

Kevorkian had been charged and tried in three assisted-suicide cases. But juries refused to find him guilty of homicide. Then in the fall of 1998, Thomas Youk asked Kevorkian to inject him with the potassium chloride. Unlike his other cases, Kevorkian himself would inject the lethal dose for the first time.

Challenging the laws against such "mercy killing," Kevorkian videotaped the entire procedure and made the tape available for broadcast on the "60 Minutes" TV program. Charged with first-degree murder, Kevorkian was convicted of second-degree murder and sentenced to 10–25 years in prison.

Should Dr. Kevorkian be commended for standing up against laws that make peaceful, dignified deaths impossible for suffering patients who want the right to die? Or is "Dr. Death" promoting something that would inevitably lead society down a path ending with people being put to death against their will?

Euthanasia

In general, euthanasia (YOUTH uhn ay zhuh) refers to merciful killing, or allowing hopelessly sick or injured persons to die in a relatively painless way. There are several forms of euthanasia:

1. Right to Refuse Treatment: A competent adult has the legal right to refuse treatment even if this will result in his or her death.

2. Double Effect: A patient may request his or her physician to administer powerful drugs such as morphine to ease unbearable pain and suffering, knowing this is also likely to hasten his or her death.

3. Passive Euthanasia: Under certain circumstances, family members may request that life-sus-

(Continued on next page)

taining machines or treatment be stopped for patients with little or no hope of regaining consciousness.

4. Physician-Assisted Suicide: A physician assists in the suicide of a dying patient, usually by supplying him or her with a lethal drug and the means to take it. In the United States, only Oregon permits this practice today.

5. Active Euthanasia: A physician performs the death-causing act after determining the wishes of the patient or the patient's family. This form of euthanasia is illegal in every state, although only a few physicians like Dr. Kevorkian have been prosecuted.

Recent polls indicate that a majority of Americans favor physician-assisted suicide when unbearable pain is involved. But support drops when pain is not a factor and when doctors themselves administer lethal drugs to end a patient's life (active euthanasia).

Oregon is the only state permitting doctors to assist the suicide of terminally ill persons.

The debate over euthanasia goes back at least to the time of Hippocrates, the ancient Greek physician known as the Father of Medicine. The famous Hippocratic Oath says in part, "I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect." Some American medical schools still use the original Hippocratic Oath, but most have adopted other oaths, which may or may not permit physicians to participate in euthanasia.

During World War II, the Nazis perverted the idea of humane euthanasia. Nazi doctors started by euthanizing "impaired" adults and children and ended up participating in the mass murder of millions of Jews and others who they considered racially inferior.

Since World War II, The Netherlands has been the only country to permit euthanasia on a large scale. Euthanasia is still technically a crime in The Netherlands, but since the 1980s Dutch courts have allowed this practice if certain guidelines are met:

- The patient must make an informed, free, and explicit request that is repeated over time.
- The patient must be experiencing unbearable physical or psychological suffering that cannot be cured.
- The patient's physician must consult with another doctor to confirm whether the request for assisted suicide or another form of euthanasia is appropriate.

In 1996, the Dutch Supreme Court released a study on euthanasia. The study found that nearly 10,000 requests for some form of euthanasia are received each year. About a third are granted. For most of these deaths, a doctor injects a patient with a lethal drug (active euthanasia).

The study found some disturbing facts. It showed that the guidelines have been stretched to include patients with long-term, but not fatal, diseases. It also found cases of non-voluntary euthanasia involving incompetent elderly persons, newborns with severe disabling defects, and even a 6-year-old with diabetes who died when his parents chose not to authorize regular injections of insulin. These developments illustrate what critics of the right to die call the "slippery slope," gradually leading to cases of individuals who seemingly have a "duty to die."

Death With Dignity

In 1975, a New Jersey 21-year-old, Karen Ann Quinlan, was in a "persistent vegetative state" caused by her taking a mixture of drugs and alcohol. Doctors told her parents that there was little hope she would ever regain consciousness.

The New Jersey Supreme Court eventually agreed with Karen's parents that she be taken off the respirator that was apparently keeping her alive. The court ruled that a person had a privacy right to refuse medical treatment. In 1990 in another case, the U.S. Supreme Court affirmed the right of patients to

refuse or discontinue life-sustaining medical treatment (*Cruzan v. Missouri*).

In 1991, voters in the state of Washington turned down a ballot initiative that would have permitted "physician aid in dying." Shortly afterward, the Washington state legislature passed a law banning physician-assisted suicide. Opponents challenged the law in the courts, arguing that competent terminally ill adults had a "fundamental liberty right" to have physician assistance in committing suicide. In 1997, the U.S. Supreme Court disagreed and basically left the right to die issue up to each state to decide (*Washington v. Glucksberg*).

In 1996, protesters in wheelchairs, many wearing "Not Dead Yet" shirts, demonstrated in front of Dr. Jack Kevorkian's home. (AP/Wide World Photos)

Oregon voters in 1994 approved a ballot initiative called the Death With Dignity Act. This law allows Oregon physicians to prescribe, but not administer, drugs to assist the suicide of terminally ill patients who expect to die within six months. Such persons may or may not be experiencing pain. The law, however, prohibits physician-assisted suicide for those suffering from psychological disorders such as depression. As it turns out, depression (which can be treated) is a greater factor in requests for physician-assisted suicide than unrelieved pain.

The National Right to Life Committee challenged the Oregon law in the courts. But in 1997, the U.S. Supreme Court dismissed the case without a decision. Oregon Governor John Kitzhaber, a medical doctor and supporter of assisted suicide, vowed to implement the law. "As a physician," he said, "I can tell you there's a clear difference between prolonging someone's life and prolonging . . . death."

Oregon is the only state permitting doctors to assist the suicide of terminally ill persons. During the first full year of legalized assisted suicide in Oregon, 23 individuals requested lethal drugs from their doctors. Fifteen of these patients, average age 69, actually used the drugs and died. Most of these persons indicated that they wanted the right to die because they had lost personal control over their lives.

Critics point out that the Oregon law fails to require doctors to try "palliative care" to ease the death of their patients. They say that medication to control pain and depression, caring hospice facilities, and the love of family and friends may all help a person die in peace with dignity without having to resort to suicide. Medical schools in the United States are beginning to train doctors in palliative-care strategies.

Dr. Faye Girsh, a psychologist, is the executive director of the Hemlock Society, an organization that promotes efforts like the Oregon initiative to legalize physician-assisted suicide. Girsh maintains that what people fear the most is a time toward the end of their lives "when they are suffering, when they have lost control, when life has no meaning or quality, and they are not able to end it."

The debate will continue. More than 2,000 years ago, Hippocrates said this about the art of medicine: "Life is short and the art long, the occasion instant, experiment perilous, decision difficult."

For Discussion and Writing

1. Review the five forms of euthanasia described in the article. Which, if any, do you believe should be illegal? Why?

(Continued on next page)

2. What do you think is the strongest argument for physician-assisted suicide? What is the strongest argument against it?
3. Do you think Dr. Kevorkian should have been convicted for killing Thomas Youk? Why or why not?

For Further Reading

Bai, Matt. "Death Wish." *Newsweek*. 7 Dec. 1998:30-33.

"Physician-Assisted Suicide." *Congressional Digest*. Nov. 1998.

Cruzan v. Missouri, 110 S.Ct. 2841 (1990)

Washington v. Glucksberg, 117 S.Ct. 2258 (1997)

ACTIVITY

A Right to Die?

In this activity, students decide on whether the Oregon physician-assisted suicide law should be adopted in every state.

1. After reading the article, each student should write a response to this question: **Should Oregon's physician-assisted suicide law be adopted by all states? Why or why not?**
2. Next, form small groups to discuss the following alternatives and to try to agree on one of them:
   A. The Oregon law should be adopted, as is, by all the states.
   B. The Oregon law should be adopted by all states, but only after certain changes are made.
   C. Physician-assisted suicide should be illegal in every state.
3. Finally, each group should defend its choice before the rest of the class.

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PostScript

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ACT publications are produced and developed jointly by Constitutional Rights Foundation and Close Up Foundation.

Funding for this program was made possible through a generous grant from the DeWitt Wallace-Reader's Digest Fund.

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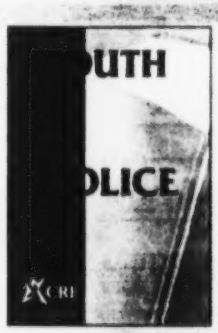

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Television Drama Explores Issues of Diversity

ATLANTA—Turner Network Television (TNT) will present the world premiere of ***Freedom Song***. Based on actual events, this feature-length dramatic film describes the impact of the civil rights movement on a small Mississippi town. Although ***Freedom Song*** is a fictional account, writer and director Phil Alden Robinson crafted the script from hundreds of oral histories given by people who risked their lives in sit-ins, freedom rides, and voter-registration efforts during the early 1960s.

Turner Learning, the educational arm of Turner Broadcasting System, will distribute an Educator's Guide with ***Freedom Song***. The Educator's Guide will list two volumes from Constitutional Rights Foundation's ***Challenge*** Series as resources. ***The Challenge of Diversity*** helps students explore the civil rights movement and its crusade to achieve American ideals of equality. ***The Challenge of Information*** gives students the critical-thinking tools they need to evaluate the media, including historical dramas like ***Freedom Song***.

Freedom Song airs on Sunday, February 27, at 8PM(ET/PT). The Educators Guide for ***Freedom Song*** will be available online at **www.tnt.turner.com/tntoriginals**.

ABOUT CRF

Constitutional Rights Foundation is a non-profit, non-partisan citizenship education organization with programs and publications on law, government, civic participation, and service learning. Since 1962, CRF has used education to address some of America's most serious youth-related problems: apathy, alienation, and lack of commitment to the values essential to our democratic way of life.

Through a variety of civic-education programs developed by CRF staff, young people prepare for effective citizenship and learn the vital role they can play in our society. Empowered with knowledge and skills, our youth can interact successfully with our political, legal, and economic systems. CRF is dedicated to assuring our country's future by investing in our youth today.

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